

# SENATE BILL REPORT

## E2SSB 6736

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As Passed Senate, February 9, 1996

**Title:** An act relating to employees of school districts.

**Brief Description:** Providing for binding arbitration for employees of school districts.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Goings, Pelz, Heavey, Rasmussen, McAuliffe, Fraser, Bauer, Franklin, Loveland, Sheldon, Spanel, Fairley, Thibaudeau, Wojahn, Snyder, Sutherland, Drew, Rinehart, Kohl, Smith, Haugen and Winsley).

**Brief History:**

**Committee Activity:** Labor, Commerce & Trade: 1/30/96, 2/1/96 [DPS, DNPS].

Ways & Means: 2/5/96, 2/6/96 [DP2S].

Passed Senate, 2/9/96, 31-17.

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### SENATE COMMITTEE ON LABOR, COMMERCE & TRADE

**Majority Report:** That Substitute Senate Bill No. 6736 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pelz, Chair; Heavey, Vice Chair; A. Anderson, Franklin, Fraser and Wojahn.

**Minority Report:** Do not pass substitute.

Signed by Senator Deccio.

**Staff:** Jonathan Seib (786-7427)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Second Substitute Senate Bill No. 6736 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rinehart, Chair; Loveland, Vice Chair; Bauer, Drew, Fraser, Hargrove, Kohl, Moyer, Pelz, Quigley, Sheldon, Snyder, Spanel, Sutherland, West, Winsley and Wojahn.

**Staff:** Denise Graham (786-7454)

**Background:** School district certificated employees may bargain their wages and working conditions under the state Education Employment Relations Act (EERA). That act provides for mediation and fact-finding if an impasse occurs in the bargaining process.

The EERA is silent on the issue of strikes. State common law, which generally prohibits public employee strikes, has been cited to support injunctions against striking certificated school district employees.

Current law provides that the average salary paid to a school district's certificated employees may not exceed the amount provided for in the salary allocation schedule established by the Legislature. The EERA explicitly states that it does not grant the right to reach agreements providing salaries in excess of those authorized in the statewide salary allocation schedule.

**Summary of Bill:** The section is repealed in the Educational Employment Relations Act that provides for mediation and fact-finding in the case of a bargaining impasse. It is replaced with provisions establishing a system of mediation and binding arbitration, modeled after the system which currently exists for uniform personnel under the Public Employees' Collective Bargaining Act.

Negotiations between a school district and the employees' bargaining representative are to begin at least five months prior to the submission of the budget to the school board. If no agreement is reached within 60 days, either party may submit the dispute to the Public Employment Relations Commission (PERC) for mediation.

If, after a reasonable period of time of mediation, the executive director or PERC finds that the parties remain at an impasse, a three-member arbitration panel is created. One member of the panel is chosen and paid for by each party. These two members may choose a neutral chair, in which case they split the cost of the chair equally. Or, they may request PERC appoint a neutral chair, in which case PERC pays the cost of the chair.

The issues before the arbitration panel are limited to those issues certified by the executive director.

The arbitration panel is to hold a hearing, and within 30 days after the hearing issue a written decision regarding the issues in dispute.

In making its decision, the arbitration panel is to consider, among other things, the cost of living, at-risk student populations or students with special needs, and the financial capability of the school district.

The decision of the arbitration panel is binding on both parties. It is subject to review by the superior court upon application of either party within 30 days of its receipt only on the question of whether it is arbitrary or capricious.

The right of educational employees to engage in any strike is prohibited. Both parties must submit to the procedures in the act without resort to strike or lockout. A refusal by either party to the dispute to abide by a court order requiring the party's participation in the arbitration process, or a court order requiring compliance with the arbitration panel's decision, is punishable as contempt.

**Appropriation:** None.

**Fiscal Note:** Requested on January 29, 1996.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** Replacing strikes with binding arbitration will provide for a positive and uninterrupted learning environment, a fair method for teachers and school districts to resolve differences, and promote a strong relationship between communities and their public schools.

**Testimony Against:** Decisions that should be made by elected school boards should not be delegated to third parties who are not accountable to the public. Arbitration is an expensive and time consuming process. The right to strike cannot be "traded" for arbitration since no right to strike currently exists.

**Testified:** PRO: LeeAnn Prielipp, Tom Morris, Washington Education Association; Jerry Steinkraus, Fife Education Association; Bob Maier, WEA; CON: Dwayne Slate, Washington School Directors Association; Constance Borgomainerio, Sue Pittman, Representative Grant Pelesky, Norm Wisner, Washington Association of School Administrators; John Kvamme, Tacoma Public Schools.